

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

)
ANDY KIM, in his personal capacity as a)
candidate for U.S. Senate, et al.,)
Plaintiffs,)
)
v.)
)
CHRISTINE GIORDANO HANLON,)
in her official capacity)
as Monmouth County Clerk, et al.,)
Defendants.)
)

**BRIEF OF ASIAN AMERICAN LEGAL DEFENSE AND
EDUCATION FUND, AAPI NEW JERSEY, AND
ASIAN AMERICANS ADVANCING JUSTICE | AAJC
AS *AMICI CURIAE* IN SUPPORT OF PLAINTIFF'S MOTION
FOR A PRELIMINARY INJUNCTION**

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INTEREST OF *AMICI CURIAE*¹

AAPi New Jersey (formerly AAPi Montclair) is a statewide Section 501(c)(3) nonprofit organization that advocates for the rights and representation of the over 1 million Asian American and Pacific Islander community members in New Jersey. In addition to organizing cultural events, youth programs, and services that address hate and bias, AAPi New Jersey conducts nonpartisan voter outreach and civic engagement to educate community members and assist them in registering to vote, understanding voting options such as mail-in-ballots, and addressing barriers to voting, including language access and voter identification challenges. AAPi New Jersey also organizes and refers community members interested in running for elected office to nonpartisan candidate trainings.

Asian American Legal Defense and Education Fund (“AALDEF”) is a national organization, founded in 1974, that protects and promotes the civil rights of Asian Americans. By combining litigation, advocacy, education, and organizing, AALDEF works with Asian American communities across the country to secure human rights for all. AALDEF has litigated cases seeking to protect the voting rights of limited-English-proficient Asian American voters, *see, e.g., OCA-Greater*

¹ No person or entity other than *amici* and their counsel authored this brief in whole or in part. No person or entity other than *amici* and their counsel contributed money intended to fund preparing or submitting this brief.

Houston v. Texas, 867 F.3d 604 (5th Cir. 2017); *Detroit Action v. City of Hamtramck*, No. 2:21-cv-11315 (E.D. Mich. June 3, 2021); *All. of South Asian Am. Labor v. Bd. of Elections in the City of N.Y.*, No. 1:13- cv-03732 (E.D.N.Y. July 2, 2013), and ensure the ability of Asian American communities of interest to elect candidates of their choice and have equal opportunity to participate in our democracy. *See, e.g.*, *N.Y. Cmtys. for Change v. Cnty. of Nassau*, No. 602316/2024 (Sup. Ct. Nassau Cnty., Feb. 7, 2024); *LULAC v. Abbott*, No. 3:21-cv-00259-DCG-JES-JVB (W.D. Tex. Nov. 16, 2021); *Favors v. Cuomo*, 881 F. Supp. 2d 356 (E.D.N.Y. 2012).

Asian Americans Advancing Justice | AAJC (“Advancing Justice-AAJC”) is a nonprofit, nonpartisan organization that seeks to create an equitable society for all. Advancing Justice-AAJC works to further civil and human rights and empower Asian American communities through organization, education, advocacy, and litigation. Advancing Justice-AAJC is a leading expert on issues of importance to the Asian American community, including voting, census, educational equity, immigrant rights, and anti-racial profiling. In recent years, Advancing Justice-AAJC has brought litigation in both Arizona (*Arizona AANHPI for Equity Coalition v. Hobbs*, No. 22-cv-1381 (D. Ariz. filed Aug. 16, 2022)) and Georgia (*Asian Americans Advancing Justice-Atlanta v. Raffensperger*, No. 21-cv-1333 (N.D. Ga. filed Apr. 1, 2021)) on behalf of Asian American and Pacific Islander voters to

vindicate their right to vote. It also operates a voter protection hotline (1-888-API-VOTE) providing information in eight AAPI languages.

INTRODUCTION

Asian Americans remain deeply underrepresented in New Jersey’s politics and elected offices. Though over 11% of the state’s residents are Asian American, only 3% of elected officials in New Jersey identified the same way.² That disparity is driven in part by the ballot designs under challenge in this case (the “Challenged Ballot Designs”), which erect both (a) barriers to voting that disproportionately harm Asian American voters and (b) barriers to running for office that force Asian American candidates to run on an uneven playing field. These twin barriers preclude Asian American voters from electing their candidates of choice.

The Challenged Ballot Designs interfere with the ability of Asian Americans to cast their ballots because they are unnecessarily complicated when compared to a simple “office block” ballot design—regularly used across the country and familiar to Americans old and new—that separates candidates by the office sought. Limited

² CTR. FOR AM. WOMEN AND POLITICS, *FINDINGS, FROM DATA TO DIVERSITY: THE DEMOGRAPHICS OF NEW JERSEY’S ELECTED OFFICIALS* (2023), <https://tinyurl.com/5xmk5m8>. *Amici* refer to Asian Americans and Pacific Islanders collectively here in the context of data that disaggregate these communities, but recognize the myriad diversities among and within Asian American, Asian and Asian immigrant, and Native Hawaiian and Pacific Islander communities, including their distinct characteristics, histories, and experiences, and how they encounter discrimination.

English proficient (“LEP”) voters are overrepresented in the Asian American community, meaning that the consequences of an unduly complicated ballot design fall disproportionately on Asian Americans. And the unnecessary difficulties created by the Challenged Ballot Designs cannot be squared with the promise that the federal government has made to the public in two separate statutes, Sections 203 and 208 of the Voting Rights Act of 1965 (“VRA”), 52 U.S.C. §§ 10503, 10508: language minorities must be able to participate effectively in the electoral process.

Moreover, the key design feature of the Challenged Ballot Designs—the apparent driving force behind all this unnecessary complexity—is to promote the so-called “county line”: a list of candidates endorsed by county party leadership appearing together in a single column on the left side of the ballot. This “county line” confers a powerful and unfair advantage to overwhelmingly white “insider” candidates, *i.e.*, incumbents and those connected to them, while simultaneously insulating them from challenge by “outsider” candidates, many of whom are exiled to the other side of the ballot, a region literally known as “ballot Siberia.” Many Asian American candidates have sought, without success, to obtain this county line benefit; others have recognized the futility of doing so and thus been chilled from running altogether. The Challenged Ballot Designs allow overwhelmingly white county leaders to tip the electoral scales against “outsider” candidates, making contested primaries in New Jersey lopsided and, as a general matter, rare. This

deprives New Jersey voters, and Asian American voters in particular, of the opportunity to vote for candidates *they* support. These inequities undermine the promise of the Constitution, federal laws, and case law which guarantee and protect equal and open access to the ballot to all voters and the ability to meaningfully participate in our democracy regardless of race or English proficiency.

In sum, the Challenged Ballot Designs undermine democracy in the state for everyone, but especially for its growing population of naturalized and language minority voters, including the over 1 million Asian American residents. This Court should enjoin the Challenged Ballot Designs in favor of the familiar “office block” design to vindicate the equal right to vote for voters of color and to ensure that Asian Americans are no longer effectively locked out of the political process.

ARGUMENT

I. A Barrier to Voting: The Challenged Ballot Designs Inhibit the Ability of Asian American Voters—Particularly LEP and Newly Naturalized Voters—to Effectively Cast Their Ballots in New Jersey

New Jersey has a proud history of Asian heritage and immigration, with over 1.05 million Asian Americans calling the state home—the fourth-highest Asian American population of any state.³ While many Asian American families have lived

³ See U.S. Census Bureau, 2022 1-Year American Community Survey, DP05: Demographic and Housing Estimates, <https://tinyurl.com/y955yed3>; Abby Budiman & Neil G. Ruiz, *Key Facts About Asian Americans, a Diverse and Growing Population*, PEW RSCH. CTR. (Apr. 29, 2021), <https://tinyurl.com/bddwf8k3>.

in New Jersey for generations, Asian Americans also make up New Jersey’s fastest growing demographic, having grown by over 31% between 2010 and 2020.⁴

Despite all this, *amici* have seen firsthand the well-documented phenomenon of “relatively low” levels of “political participation” among Asian Americans compared to other groups.⁵ Numerous factors contribute to this problem, including candidate and party use of the “model minority” and “forever foreigner” stereotypes to wrongfully “conclude that Asian Americans do not really want to vote,”⁶ the challenges of Asian-Americans being on the “outside” of the “insider-outsider dimension” of American “political membership,”⁷ and the presence of “entrenched political interests that resist Asian American newcomers.”⁸

Barriers to Asian American political participation have particularly acute effects on LEP and newly naturalized voters. In New Jersey, 30% of Asian Americans identify as LEP, with approximately 83% speaking a language other than

⁴ AAPI Data, State of Asian Americans, Native Hawaiians, and Pacific Islanders in the United States 102–03 (2022), <https://tinyurl.com/px2bkuvm>.

⁵ Janelle S. Wong and Karthick Ramakrishnan, ASIAN AMERICANS AND THE POLITICS OF THE TWENTY-FIRST CENTURY, 26 Annual R. Poli. Sci. 305, 311 (2023) <https://tinyurl.com/tz9ut5hj>.

⁶ Wong *et al.*, *supra* note 5, at 312.

⁷ Wong *et al.*, *supra* note 5, at 307.

⁸ Wong *et al.*, *supra* note 5, at 314.

English at home.⁹ Asian Americans are also disproportionately naturalized citizens and first-time voters. For example, in the 2020 election, 27% of Asian American voters were first-time voters¹⁰—over *twice* the percentage of first-time voters in the overall voting population (13%).¹¹ In that same year, while 73% of Asian American voters were foreign-born naturalized citizens,¹² only 10% of eligible voters were.¹³ Many of these naturalized citizens come from countries without strong democratic traditions.¹⁴ These citizens can find voting a challenging process,¹⁵ making it all the

⁹ APIAVOTE & AAPI DATA, 2022 AAPI VOTER DEMOGRAPHICS BY STATE, NEW JERSEY 2 (2022), <https://tinyurl.com/4pu63k4e>.

¹⁰ AALDEF Exit Poll: Asian Americans Favor Biden Over Trump 68% to 29%; Played Role in Close Races in Georgia and Other Battleground States, Asian American Legal Defense & Education Fund (Nov. 13, 2020), <https://tinyurl.com/bde4bkm2>.

¹¹ NBC News Exit Poll: Biden Outperforming Clinton Among New Voters, NBC News (Nov. 3, 2020), <https://tinyurl.com/2nxfddad>.

¹² AALDEF Exit Poll, *supra* note 10. This rate mirrors New Jersey's demographics: roughly three fourths of New Jersey's Asian American citizens of voting age are naturalized citizens. See U.S. CENSUS BUREAU, 2022 1-YEAR AMERICAN COMMUNITY SURVEY, B05003D SEX BY AGE BY NATIVITY AND CITIZENSHIP STATUS (ASIAN ALONE), <https://tinyurl.com/4322wrac>.

¹³ Abby Budiman, et al., *Naturalized Citizens Make Up Record One-in-Ten U.S. Eligible Voters in 2020* (Feb. 26, 2020), <https://tinyurl.com/5f7nf6md>.

¹⁴ “Voting became a new muscle to learn how to exercise.” Laura Zhang, *Voting Their Stories: Asian Americans Reckon with Race and Community*, SMITHSONIAN CTR. FOR FOLKLIFE & CULTURAL HERITAGE (Nov. 2, 2020), <https://tinyurl.com/3rbj7yh8>.

¹⁵ See, e.g., CTR. FOR CIVIC DESIGN, SHORT STORIES FROM NEW CITIZENS 13, 18, 42, 44, 48–49 (2019), <https://tinyurl.com/mszbxc4x>.

more critical for ballot designs to assist, rather than hinder, these voters’ ability to effectively cast their votes. Indeed, *amici* work with LEP and newly naturalized voters in New Jersey and across the country who report having trouble understanding voting procedures due to lack of familiarity with the democratic process.¹⁶

All these characteristics make New Jersey’s Asian American voters particularly susceptible to the pernicious impact of the Challenged Ballot Designs. The fundamental problems of these designs have been well explained by Plaintiffs. In summary, it is common practice for ballots across the country—including those used by Defendants themselves in certain elections—to use the “office block” design that arranges candidates simply and intuitively by the office sought. *See also* Verified Compl. ¶¶ 5, 7. By contrast, the Challenged Ballot Designs are designed to promote the aberrant county line—the string of generally white (and non-Asian) candidates selected by county party leaders. Meanwhile, “outsider” candidates are often arbitrarily strewn across several columns to the right of the page, many relegated to “ballot Siberia.” Verified Compl. at 3; ¶ 86.

The resulting ballot design is demonstrably unintuitive. As Plaintiffs correctly state, the “features” of these designs “make it difficult to find candidates, determine what they are running for, [and] understand who they are running against.” Pls.’ Br.

¹⁶ See, e.g., *id.*; Press Release, AAPI Montclair, Asian Americans Share Harmful Impact of NJ’s Ballot Line (Mar. 8, 2024), <https://tinyurl.com/mrxm3rmj>.

in Supp. of Mot. for Prelim. Inj. at 35. Furthermore, as *amici* are acutely aware, “poor and racial and ethnic minorities [across] the country have been most impacted when these problems are not adequately addressed.”¹⁷ Ballot mechanics in particular pose a challenge for new voters who are afraid to make a mistake that could invalidate their vote or, as some fear, incur a penalty for making an error. The Challenged Ballot Designs exacerbate that very fear by sowing confusion over which candidates are competing for the same office, and how many candidates a voter may select for a given office.¹⁸

In addition, LEP and newly naturalized voters—including many Asian American voters—rely on someone they trust to assist them with voting. For many, this means a young child who is fluent in English or a dependable neighbor who can help them navigate the poll site and ballot process.¹⁹ These assistors are more than

¹⁷ LAWRENCE NORDEN & SUNDEEP IYER, BRENNAN CTR., DESIGN DEFICIENCIES AND LOST VOTES 4 (2011); Cf. David Kimball & Martha Kropf, *Ballot Design and Unrecorded Votes on Paper-Based Ballots*, 69 PUB. OP. QUARTERLY 508, 510 (2005) (“The elevated rate of unrecorded votes associated with confusing ballots and voting technology tends to fall disproportionately on precincts and counties with high concentrations of poor, elderly, or minority voters.”).

¹⁸ Julia Sass Rubin, New Jersey Policy Perspective, *Toeing the Line: New Jersey Primary Ballots Enable Party Insiders to Pick Winners* 2 (Jun. 2020), <https://tinyurl.com/4snn2v23>.

¹⁹ See Enforcement of the Voting Rights Act in the State of Texas: Hearing Before the Subcomm. on the Constitution, Civil Rts., and Civil Liberties of the H.

capable of translating straightforward ballots for LEP voters, but are generally not elections experts with deep knowledge of ballot design. The Challenged Ballot Designs, with candidates' names scattered chaotically across different lines, make it difficult for assistors to adequately explain the ballot to voters already dealing with language barriers. By impairing the ability of assistors to adequately provide assistance, the Challenged Ballot Designs needlessly interfere with the voter's right to effectively cast their ballot.

The foregoing discussion of barriers faced by many Asian Americans should not be viewed in a vacuum. Congress itself has long spoken about the promise of meaningful, substantive, and fair ballot access, including to LEP voters, enshrining that promise in the form of numerous protections, including Sections 203 and 208 of the VRA. These statutes demonstrate Congress' acknowledgement of the disproportionate burdens LEP voters bear at the polls, and specifically that "[w]hat is done at the local level by local officials has the most impact upon the ability of these [language] minorities to vote and the effectiveness of that vote . . . Many

Comm. on the Judiciary, 116th Cong., at 62, 69–70 (2019) (statement of Jerry Vattamala, Director, Democracy Program, Asian American Legal Defense and Education Fund), <https://tinyurl.com/retrep8y>.

obstacles placed by these officials frighten, discourage, frustrate, or otherwise inhibit language minority citizens from voting.”²⁰

In considering the pernicious effects of the Challenged Ballot Designs on New Jersey’s Asian American voters, this Court should regard Congress’s motivations underlying the VRA and affirm that LEP and naturalized voters deserve an effective vote.

II. A Barrier to Running: The Challenged Ballot Designs Diminish Asian Americans’ Ability to Elect Their Preferred Candidates

The Challenged Ballot Designs also put the thumb of county party leadership on the electoral scales against outsider candidates (including Asian American candidates) who challenge overwhelmingly white insider candidates. As a result, Asian Americans remain vastly underrepresented in elected offices at all levels.

A. Asian Americans Remain Underrepresented in Elected Office in New Jersey

Proportionality of representation is an important measure of whether an electoral system treats minority groups fairly. *See Jenkins v. Manning*, 116 F.3d 685, 692 (3d Cir. 1997) (noting that “proportionality of representation, or the lack thereof” is “relevant” but “not dispositive” in a claim under Section 2 of the Voting

²⁰ S. REP. NO. 94-295, at 13 (1975).

Rights Act); *Crawford v. Marion Cnty. Election Bd.*, 553 U.S. 181, 202 (2008) (noting relevance of disparate impact in *Anderson-Burdick* analysis).

Under that measure, the New Jersey electoral system is failing Asian American voters. Though Asian Americans now comprise over 11% of New Jersey’s population—and have seen their share of the population increase by nearly one-third since 2010²¹—they have seen no real increase in political representation. As a result, Asian Americans are “often left out of the conversation” about policy.²²

Indeed, New Jersey state legislators are overwhelmingly white—nearly three-quarters in the 2024 legislative session—though just 51.5% of the state’s residents identify the same way.²³ By contrast, Asian Americans remain starkly underrepresented. They now comprise around 10-11% of the state’s population, yet hold only 5% of the seats in the legislature.²⁴ This is not new news: New Jersey saw a similarly low level of racial diversity in its politics, including in representation of

²¹ *New Jersey Population Topped 9 Million in Last Decade*, U.S. CENSUS BUREAU: AM. COUNTS (Aug. 25, 2021), <https://tinyurl.com/5n6znu5f>.

²² Brent Johnson, *Asian-Americans Are an Ever-Growing Part of N.J.’s Population. But leaders Say They Are Often ‘Invisible.’*, NJ.COM (May 26, 2019), <https://tinyurl.com/59eysem6>.

²³ Colleen O’Dea, *Will the New Legislature Be Any More Diverse than the Last?*, NJ SPOTLIGHT NEWS (Jan. 9, 2024), <https://tinyurl.com/5ajd859y>.

²⁴ O’Dea, *supra* note 23.

Asian Americans, in 2023,²⁵ 2022,²⁶ 2021,²⁷ and earlier, with no definitive trend indicating improvement.²⁸

Matters are even worse at the county level, where only 1.5% of elected officials are either Asian Americans or Pacific Islander Americans.²⁹ This, too, reflects a broader trend of underrepresentation at all political levels going back years. A 2016 study showed that only 1% of the state's elected officials at any level were Asian American; and of that 1%, 83% served on school boards.³⁰ And as one observer has noted, "New Jersey's party line system especially hurts women and people of color," citing the "intense political gatekeeping and lack of transparency" that "makes it harder for newcomers to get in and continues to be a roadblock to achieving wider diversity in our state's elected officials."³¹

²⁵ Maria Monica Fernandez, *New Jersey's Diversity Not Fully Reflected in Legislature*, MONTCLAIR LOCAL NEWS (Nov. 4, 2023), <https://tinyurl.com/2cur7kpn>.

²⁶ Sophie Nieto-Munoz, *Diversity in N.J. Legislature Improves in 2022, but Still Doesn't Reflect the State*, N.J. MONITOR (Jan. 11, 2022), <https://tinyurl.com/2u4ktxtx>.

²⁷ Sophie Nieto-Munoz, *N.J. Lawmakers Brag of Leading a Diverse State. But Legislature is Overwhelmingly White*, N.J. MONITOR (July 28, 2021), <https://tinyurl.com/44jjkd3w>.

²⁸ *Id.* (tracking Asian American representation in legislature back to 2020).

²⁹ Ctr. for Am. Women and Politics, *supra* note 2.

³⁰ JERSEY PROMISE, A REPORT ON THE STATE OF ASIAN AMERICANS IN NEW JERSEY 63 (May 2019), <https://tinyurl.com/3upv86ey>.

³¹ O'Dea, *supra* note 23.

The impact of the county line on New Jersey's Asian American voters becomes apparent when New Jersey is compared to other states that do not use such a ballot design. Illinois is one notable example. Though Asian Americans constitute a much smaller percentage of the population there (6%) than in New Jersey (11%), they are roughly proportionally represented in the state legislature.³² Further, though New Jersey has among the largest populations of Asian Americans in the country, it has sent only one Asian American to the House of Representatives in its 237-year history—fewer than younger states with smaller or similar percentages of Asian Americans, including Illinois (two representatives; 6% of the population), Louisiana (two representatives; 2% of the population), Michigan (two representatives; 2% of the population), and Washington (two representatives; 12% of the population).³³

B. The County Line Disadvantages Asian American Candidates and Insulates Overwhelmingly White Incumbents from Challenge

New Jersey's county line drives the underrepresentation of Asian Americans in its politics by making both voting, and running harder for Asian Americans. To win, Asian American candidates, like all primary candidates in the state, effectively

³² Theresa Mah, *Asian Americans Are Making a Big Mark in Illinois Politics*, CHICAGO SUN TIMES (Nov. 9, 2022), <https://tinyurl.com/yck8v49e>.

³³ Asian Americans Advancing Justice, *AANHPI Representation in the U.S. House*, Asian Resource Hub (last accessed Mar. 4, 2024), <https://tinyurl.com/ndbyd9cz>; see also *New Jersey QuickFacts*, United States Census Bureau (last accessed Mar. 8, 2024) (comparing Asian American populations by percentage among states), <https://tinyurl.com/4mbt22n4>.

need to secure the county line: its power is so substantial that, as one analysis phrased it, the ballot design “shift[s] the power to decide who wins primary elections away from the voters and towards a small group of party insiders who control the candidate endorsement process.”³⁴ In short, it prevents Asian American voters from being able to elect candidates of their choice. One reason is that the county line invests political insiders—who are disproportionately white and male³⁵—with the authority to make the often-determinative endorsement decision through a process outside of the public eye,³⁶ sometimes without any explanation of the reason for their choice.³⁷

Even in the counties where Asian Americans are most populous—Middlesex (24% of residents), Bergen (16%), and Hudson (15%)³⁸—*amici* have been unable to

³⁴ RUBIN, *supra* note 18, at 1; *see also* Steven M. Fulop, Angela McKnight & Raj Mukherji, *Fulop, McKnight and Mukherji: The Time Has Come to Abolish the Line*, N.J. GLOBE (Mar. 11 2024), <https://tinyurl.com/yc7bdw2b>.

³⁵ Joey Fox, *An Interview with Bonnie Watson Coleman*, N.J. GLOBE (Feb. 15, 2024), <https://tinyurl.com/37canjuu>.

³⁶ See Julia Sass Rubin, *The Impact of New Jersey’s County Line Primary Ballots on Election Outcomes, Politics, and Policy*, 48 SETON HALL J. OF LEGIS. & POL’Y 48, 61-62 (2023) (“The endorsement process varies substantially by county and between election cycles. . . . Most county party bylaws . . . are silent on [the county committee members]. . . . In other counties, the endorsement decisions are made solely by the county party chair[.]”).

³⁷ David Wildstein, *Chiavaravalloti Drops Bid for Re-Election After Losing Party Support*, N.J. GLOBE (Apr. 19, 2021), <https://tinyurl.com/mrpu6ajw>.

³⁸ Brent Johnson, *supra* note 22.

identify a single Asian American in Democratic Party³⁹ committee executive leadership there.⁴⁰

Candidates receiving the endorsement of the county party committee are “bracketed” with other endorsed candidates—*i.e.*, appear on the same ballot line—allowing them to be eligible to receive the coveted first ballot position. *See* Pls. Br. in Supp. of Mot. for Prelim. Inj. at 3-6 (outlining county line and bracketing process). Many Asian American candidates have been unable to garner county party committees’ endorsement and were therefore ineligible for the first ballot position.

For example, in 2017, Dr. Jennifer Chuang ran in the Democratic primary for the Assembly’s Seventh Legislative District for one of two available seats. Her opponents were two white party insiders—one, an incumbent; the other, a staffer for other members of the Assembly.⁴¹ Though Dr. Chuang sought the endorsement of

³⁹ These counties skew overwhelmingly Democratic. Matt Arco, *Are You Surrounded by Democrats or Republicans? How Jersey Breaks Red and Blue in All 21 Counties.*, NJ.com (Nov. 3, 2019), <https://tinyurl.com/2kfn4nf4>.

⁴⁰ See, e.g., *About Us*, Middlesex County Democratic Organization (last accessed Mar. 5, 2024), <https://tinyurl.com/pf2cm7ze>; *Party Leadership*, Democratic Committee of Bergen County (last accessed Mar. 5, 2024), <https://bergendemocrats.com/party-leadership>; David Wildstein, *Vainieri Elected Hudson Democratic County Chairman*, N.J. GLOBE (Jun. 14, 2022), <https://tinyurl.com/hfdh82c6>.

⁴¹ David Levinsky, *Moorestown Doctor Kicks off Underdog Campaign for NJ Assembly*, BURLINGTON CNTY. TIMES (Apr. 4, 2017), <https://tinyurl.com/546wzns6>.

the Burlington County Democratic Committee,⁴² the Committee endorsed the two white candidates instead, who bracketed on the county line.⁴³ With the benefit of bracketing and the county line, those two other candidates proceeded to the general election; Dr. Chuang did not.⁴⁴

Likewise, in 2023, Mamta Singh sought the Democratic nomination for the Hudson County Board of Commissioners in District 4. Her opponent, an incumbent and wife of a former Jersey City Councilman,⁴⁵ received the county party endorsement and, therefore, the county line.⁴⁶ Ms. Singh lost the primary.⁴⁷

The county line also constitutes a barrier to representation for Asian Americans because it all but guarantees re-election to incumbents, among whom Asian Americans are a rarity.⁴⁸ In New Jersey state legislative elections between 2003 and 2023, 206 of the 209 “incumbents who ran on the county line in all the

⁴² *Id.*

⁴³ Official List: Candidates for General Assembly for Primary Election 06/06/2014 Election, <https://tinyurl.com/yc6ffa9h>.

⁴⁴ *Id.*

⁴⁵ Ron Zeitlinger, *Hudson Dems’ Endorsements: Freeholder Torres Out, Wife of Former Jersey City Councilman In*, NJ.com (Feb. 14, 2020), <https://tinyurl.com/mr3r9zpb>.

⁴⁶ Mark Koosau, *Contested Races and New Faces in Hudson County Democratic Primaries*, NJ.com (Mar. 29, 2023), <https://tinyurl.com/yufymfv7>.

⁴⁷ Official Results, Hudson County (last accessed Mar. 3, 2024), <https://tinyurl.com/f28uwz7e>.

⁴⁸ O’Dea, *supra* note 23.

counties in their district . . . won their renomination,” a rate of 99%. Verified Compl., Ex. C at 12. In the state’s 2023 elections, “[v]irtually every candidate who won the official [party] endorsement won in [that] year’s primary election.”⁴⁹ The only exception was one incumbent who “lost to a former governor and the longest-serving state lawmaker who also got the [county] line” in two counties.⁵⁰

The entrenchment the county line provides to overwhelmingly-white incumbents and other party insiders is likely even greater than it appears at first blush because it frequently deters outsider candidates—who are often nonwhite—from running at all: “About 9% of primary races are contested [in New Jersey]” but “[n]ationwide, the figure hovers near 18%.”⁵¹ The effect is so strong that even incumbents who lose the county line choose not to run. In 2021, the Cherry Hill Democratic Organization denied incumbent mayor Susan Shin Angulo, a Korean American, its endorsement and, therefore, the county line.⁵² Within ten days, Mayor Angulo withdrew from the race.⁵³

⁴⁹ Colleen O’Dea, *2023 Primary Results Prove Power of the Party Line*, NJ Spotlight News (Jun. 8, 2023), <https://tinyurl.com/4b86j4a5>.

⁵⁰ *Id.*

⁵¹ Sophie Nieto-Munoz et al., *As Primary Day nears, vast majority of legislative candidates are running unopposed*, N.J. MONITOR (Jun. 2, 2023), <https://tinyurl.com/2jrcyvbn>.

⁵² David Wildstein, *After being dropped by Democrats, Cherry Hill mayor won’t seek re-election*, N.J. Globe (Mar. 9, 2023), <https://tinyurl.com/4zbp63ff>.

⁵³ *Id.*

Even when there is no incumbent, many would-be candidates choose not to run because they know they would not be able to obtain the county line. In 2023, despite the “largest number of lawmakers in nearly two decades opt[ing] not to seek a return to their seats” there was no “surge in people seeking office”: as Dr. Arati Kreibich—an Asian American activist—put it, would-be candidates “know that if they don’t have the line, they’re not going to win[.]”⁵⁴ In fact, Dr. Kreibich herself previously ran for office without the benefit of the county line and was unsuccessful in her candidacy.⁵⁵ Another Asian American considering running for office has noted the difficulty of getting “on the radar of the party establishment,” and so she will have to choose between not running at all or running—upstream—off the line.⁵⁶

By protecting the racially inequitable status quo, the county line deprives Asian Americans in New Jersey of the ability to elect candidates of their choice.

CONCLUSION

For the foregoing reasons, this Court should grant Plaintiffs’ motion for a preliminary injunction and enjoin the Challenged Ballot Designs.

⁵⁴ Nieto-Munoz et al., *supra* note 51.

⁵⁵ Cf. *Release: Arati Kreibich Statement on Official Primary Election Results*, INSIDER NJ (July 27, 2020), <https://tinyurl.com/mve2yd37>.

⁵⁶ AAPI Montclair, *supra* note 16.

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